

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v James Arthur Hayes**
Docket No. **268848**
L. Ct. No. **92-000404-02**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction as the May 5, 2005 order denying appellant's motion for relief from judgment under MCR 6.500 *et seq.* stems from a successive motion requesting this type of relief since 1995 where no newly discovered evidence or retroactive change in the law can be found. MCR 6.502(G). To fall within the former exception, the proffered evidence must be truly something that the proponent had no knowledge of before filing the first motion for relief from judgment and the party could not, using reasonable diligence, have discovered and produced it. *People v Cress*, 468 Mich 678, 692; 664 NW2d 174 (2003). Here, appellant had over four years from the date of sentencing to the date of filing his first motion for relief from judgment to obtain this letter by requesting a copy of his file from his trial counsel, so the letter cannot be seen as newly discovered evidence.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 17 2006

Date

Sandra Schultz Mengel

Chief Clerk